

FIRST REGULAR SESSION

# HOUSE BILL NO. 803

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES BRAY AND KENNEDY (Co-sponsors).

Read 1<sup>st</sup> time February 15, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

1823L.02I

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### AN ACT

To amend chapter 144, RSMo, by adding thereto ten new sections relating to sales and use tax administration, with an effective date.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 144, RSMo, is amended by adding thereto ten new sections, to be  
2 known as sections 144.1050, 144.1053, 144.1056, 144.1059, 144.1062, 144.1065, 144.1068,  
3 144.1071, 144.1074 and 144.1077, to read as follows:

**144.1050. Sections 144.1050 to 144.1077 shall be known as and referred to as the**  
2 **"Simplified Sales and Use Tax Administration Act".**

**144.1053. As used in sections 144.1050 to 144.1077, the following terms shall mean:**

2 (1) "Agreement", the Streamlined Sales and Use Tax Agreement;

3 (2) "Certified automated system", software certified jointly by the states that are  
4 signatories to the agreement to calculate the tax imposed by each jurisdiction on a  
5 transaction, determine the amount of tax to remit to the appropriate state, and maintain  
6 a record of the transaction;

7 (3) "Certified service provider", an agent certified jointly by the states that are  
8 signatories to the agreement to perform all of the seller's sales tax functions;

9 (4) "Person", an individual, trust, estate, fiduciary, partnership, limited liability  
10 company, limited liability partnership, corporation, or any other legal entity;

11 (5) "Sales tax", any sales tax levied pursuant to this chapter, section 32.085, RSMo,  
12 or any other sales tax authorized by statute and levied by this state or its political  
13 subdivisions;

14 (6) "Seller", any person making sales, leases or rentals of personal property or  
15 services;

16 (7) "State", any state of the United States, and the District of Columbia;

17 (8) "Use tax", the use tax levied pursuant to this chapter.

144.1056. The general assembly finds that a simplified sales and use tax system will  
2 reduce and over time eliminate the burden and cost for all vendors to collect this state's  
3 sales and use tax. The general assembly further finds that this state should participate in  
4 multistate discussions to review and, when necessary, amend the terms of the agreement  
5 to simplify and modernize sales and use tax administration in order to substantially reduce  
6 the burden of tax compliance for all sellers and for all types of commerce.

144.1059. For the purposes of reviewing and if necessary amending the agreement  
2 embodying the simplification requirements as contained in section 144.1068, the state shall  
3 enter into multistate discussions. For purposes of such discussions, the state shall be  
4 represented by no more than four delegates, who shall be appointed by the governor, with  
5 the advice and consent of the senate and no more than two delegates shall belong to the  
6 same political party. The delegates shall serve at the pleasure of the governor.

144.1062. 1. The director of revenue is authorized and directed to enter into the  
2 streamlined sales and use tax agreement with one or more states to simplify and modernize  
3 sales and use tax administration in order to substantially reduce the burden of tax  
4 compliance for all sellers and for all types of commerce. In furtherance of the agreement,  
5 the director of revenue is authorized to act jointly with other states that are members of  
6 the agreement to establish standards for certification of a certified service provider and  
7 certified automated system and establish performance standards for multistate sellers.

8 2. The director of revenue is further authorized to take other actions reasonably  
9 required to implement the provisions set forth in sections 144.1050 to 144.1077. Other  
10 actions authorized by this section include, but are not limited to, the adoption of rules and  
11 regulations and the joint procurement, with other member states, of goods and services in  
12 furtherance of the cooperative agreement.

13 3. The director of revenue or the director's designee is authorized to represent this  
14 state before the other states that are signatories to the agreement.

144.1065. No provision of the agreement authorized by sections 144.1050 to  
2 144.1077 in whole or in part invalidates or amends any provision of the law of this state.  
3 Implementation of any condition of this agreement in this state, whether adopted before,  
4 at, or after membership of this state in the agreement, must be by the action of the general  
5 assembly.

144.1068. The director of revenue shall not enter into the streamlined sales and use  
2 tax agreement unless the agreement requires each state to abide by the following  
3 requirements:

- 4           **(1) The agreement must set restrictions to limit over time the number of state rates;**  
5           **(2) The agreement must establish uniform standards for the following:**  
6           **(a) The sourcing of transactions to taxing jurisdictions;**  
7           **(b) The administration of exempt sales; and**  
8           **(c) Sales and use tax returns and remittances;**  
9           **(3) The agreement must provide a central, electronic registration system that allows**  
10 **a seller to register to collect and remit sales and use taxes for all signatory states;**  
11           **(4) The agreement must provide that registration with the central registration**  
12 **system and the collection of sales and use taxes in the signatory states will not be used as**  
13 **a factor in determining whether the seller has nexus with a state for any tax;**  
14           **(5) The agreement must provide for reduction of the burdens of complying with**  
15 **local sales and use taxes through the following:**  
16           **(a) Restricting variances between the state and local tax bases;**  
17           **(b) Requiring states to administer any sales and use taxes levied by local**  
18 **jurisdictions within the state so that sellers collecting and remitting these taxes will not**  
19 **have to register or file returns with, remit funds to, or be subject to independent audits**  
20 **from local taxing jurisdictions;**  
21           **(c) Restricting the frequency of changes in the local sales and use tax rates and**  
22 **setting effective dates for the application of local jurisdictional boundary changes to local**  
23 **sales and use taxes; and**  
24           **(d) Providing notice of changes in local sales and use tax rates and of changes in the**  
25 **boundaries of local taxing jurisdictions;**  
26           **(6) The agreement must outline any monetary allowances that are to be provided**  
27 **by the states to sellers or certified service providers. The agreement must allow for a joint**  
28 **public and private sector study of the compliance cost on sellers and certified service**  
29 **providers to collect sales and use taxes for state and local governments under various levels**  
30 **of complexity, to be completed by July 1, 2002;**  
31           **(7) The agreement must require each state to certify compliance with the terms of**  
32 **the agreement prior to joining and to maintain compliance, under the laws of the member**  
33 **state, with all provisions of the agreement while a member;**  
34           **(8) The agreement must require each state to adopt a uniform policy for certified**  
35 **service providers that protects the privacy of consumers and maintains the confidentiality**  
36 **of tax information; and**  
37           **(9) The agreement must provide for the appointment of an advisory council of**  
38 **private sector representatives and an advisory council of nonmember state representatives**  
39 **to consult with in the administration of the agreement.**

144.1071. The agreement authorized by sections 144.1050 to 144.1077 is an accord  
2 among individual cooperating sovereigns in furtherance of their governmental functions.  
3 The agreement provides a mechanism among the member states to establish and maintain  
4 a cooperative, simplified system for the application and administration of sales and use  
5 taxes under the duly adopted law of each member state.

144.1074. 1. The agreement authorized by sections 144.1050 to 144.1077 binds and  
2 inures only to the benefit of this state and the other member states. No person, other than  
3 a member state, is an intended beneficiary of the agreement. Any benefit to a person other  
4 than a state is established by the law of this state and the other member states and not by  
5 the terms of the agreement.

6 2. Consistent with subsection 1 of this section, no person shall have any cause of  
7 action or defense under the agreement or by virtue of this state's approval of the  
8 agreement. No person may challenge, in any action brought pursuant to any provision of  
9 law, any action or inaction by any department, agency, or other instrumentality of this  
10 state, or any political subdivision of this state on the grounds that the action or inaction is  
11 inconsistent with the agreement.

12 3. No law of this state, or the application thereof, may be declared invalid as to any  
13 person or circumstance on the ground that the provision or application is inconsistent with  
14 the agreement.

144.1077. 1. A certified service provider is the agent of a seller, with whom the  
2 certified service provider has contracted, for the collection and remittance of sales and use  
3 taxes. As the seller's agent, the certified service provider is liable for sales and use tax due  
4 each member state on all sales transactions it processes for the seller except as set forth in  
5 this section.

6 2. A seller that contracts with a certified service provider is not liable to the state  
7 for sales or use tax due on transactions processed by the certified service provider unless  
8 the seller misrepresented the type of items it sells or committed fraud. In the absence of  
9 probable cause to believe that the seller has committed fraud or made a material  
10 misrepresentation, the seller is not subject to audit on the transactions not processed by the  
11 certified service provider. The member states acting jointly may perform a system check  
12 of the seller and review the seller's procedures to determine if the certified service  
13 provider's system is functioning properly and the extent to which the seller's transactions  
14 are being processed by the certified service provider.

15 3. A person that provides a certified automated system is responsible for the proper  
16 functioning of that system and is liable to the state for underpayments of tax attributable  
17 to errors in the functioning of the certified automated system. A seller that uses a certified

18 **automated system remains responsible and is liable to the state for reporting and remitting**  
19 **tax.**

20 **4. A seller that has a proprietary system for determining the amount of tax due on**  
21 **transactions and has signed an agreement establishing a performance standard for the**  
22 **system is liable for the failure of the system to meet the performance standard.**

Section B. Section A of this act shall become effective January 1, 2002.